

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

CLERK'S MINUTES

Before the Honorable Martha Vázquez

Case No.: CR 15-214-MV

Date: December 16, 2015

Title: *USA v. Gerald James Viarrial*

Courtroom Clerk: Andrew L. Kincaid

Court Reporter: Susan B. Sperry

Court in Session: 8:49 A.M.

Court in Recess: 8:56 p.m.

TOTAL TIME IN COURT = 5 hours, 9 minutes

TYPE OF PROCEEDING: Jury Trial – Day 3

COURT'S RULINGS AND/OR DISPOSITION: Jury returns verdict of Guilty on Counts 1, 2, 3, 5 and 6, Not Guilty on Count 7

**ORDER CONSISTENT WITH
COURT'S RULING TO BE
PREPARED BY:**

INTERPRETER:

ATTORNEY(S) FOR PLAINTIFF:

AUSA Kyle Nayback

AUSA Novaline Wilson

ATTORNEY(S) FOR DEFENDANT:

Todd Hotchkiss, Esq.

PROCEEDINGS:

8:49 A.M. Court in Session, takes up preliminary matters.
8:52 A.M. Court in recess.
9:05 A.M. Court returns, jury returns, government calls RV, duly sworn, begin direct examination by AUSA Wilson.
9:21 A.M. End direct examination, begin cross-examination by Defense.
9:50 A.M. End cross-examination by Defense, witness excused.
9:51 A.M. Government calls Sgt. Jon Lopez, Pueblo of Pojoaque Tribal Police Dept, duly sworn, direct examination by AUSA Wilson.
9:59 A.M. Government's Exs. 6 & 7, consent to search forms, admitted without objection.
10:07 A.M. Government's Ex. 22 firearm found in safe (S&W), admitted without objection.
10:08 A.M. Government's Ex. 23 firearm found in safe (S.A.), admitted without objection.

10:08 A.M. Government's Ex. 24 firearm found in safe (P.A.), admitted without objection.
10:09 A.M. Government's Ex. 25 firearm found in safe (S&W), admitted without objection.
10:14 A.M. End direct examination by AUSA Wilson, begin cross-examination by Defense.
10:19 A.M. End cross-examination by Defense, witness excused.
10:20 A.M. Government calls Kevin Strine, forensic scientist with N.M. crime lab.
10:25 A.M. Mr. Strine admitted as an expert in firearm analysis, identifies Ex. 22-25.
10:30 A.M. End direct exam by AUSA Wilson, begin cross-examination by Defense.
10:31 A.M. End cross-examination, witness excused.
10:31 A.M. Government Ex. 5, stipulation re: Indian Country and Indian Status, admitted without objection, read aloud for the jury.
10:34 A.M. Government rests, Court in recess.
10:56 A.M. Defense makes directed verdict/judgment of acquittal motion, renews all prior motions and objections.
10:57 A.M. Government opposes the Motion.
10:59 A.M. Court denies Motion, jury returns.
11:00 A.M. Defense calls Marilyn Archuleta, duly sworn, begin direct exam.
11:06 A.M. End direct-exam, begin cross-examination by AUSA Nayback.
11:16 A.M. End cross-exam, re-direct by Defense.
11:17 A.M. End re-direct, witness excused.
11:17 A.M. Defense calls Anthony Archuleta, duly sworn, begin direct examination.
11:21 A.M. End direct exam, begin cross-exam by AUSA Nayback.
11:26 A.M. End cross-exam, begin re-direct.
11:27 A.M. End re-direct, witness excused.
11:27 A.M. Defense calls Defendant, Gerald Viarrial.
11:49 A.M. End direct exam, begin cross-exam by AUSA Nayback.
12:13 P.M. End cross-exam, witness excused.
12:13 P.M. Defense rests.
12:15 P.M. Court dismisses jury until 2:15 P.M.
1:47 P.M. Court returns, discuss alternate juror.
1:51 P.M. Court takes up jury instructions. All instructions accepted without objection. Government estimates 20 minutes, Defenses estimates 30 minutes for closing.
2:15 P.M. Court returns, jury returns, jury instructions distributed, Court reads jury instructions.
2:53 P.M. Begin closing argument by government per AUSA Novaline Wilson.
3:08 P.M. End closing by government, begin closing by Defense.
3:37 P.M. End closing by Defense, begin rebuttal closing by government.
3:52 P.M. End rebuttal closing by government per AUSA Nayback.
3:52 P.M. Alternate witnesses excused, remaining jurors instructed on logistics.
3:57 P.M. Jury sent to deliberate.
8:48 P.M. Jury returns with verdict, read aloud by court:
Count 1: Guilty
Count 2: Guilty
Count 3: Guilty
Count 5: Guilty USE (YES) BRANDISH (YES)
Count 6: Guilty
Count 7: Not Guilty

8:53 P.M. Court thanks jury for service.
8:55 P.M. Jury dismissed.
8:56 P.M. Court in recess.